

**STATE OF OHIO**

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) SS:

**COUNTY OF CUYAHOGA**

)

**AFFIDAVIT**

**KENNETH JOHNSON**, being first duly sworn according to law, deposes and states that:

1. I am one of the named Defendants in the case captioned Brian Coffey etc v. Buckeye Shaker Square Development Corporation et al., Case No.: 1:18-CV-02675-CAB in the United States District Court, Northern District of Ohio.
2. As will be fully explained in this Affidavit, despite representations made by Plaintiff's legal counsel to the contrary, I was never served with the Complaint, and I was only made aware of the legal circumstance that I was a Defendant in this case when I received a copy of the Motion for Default Judgment in the mail, during the last week of June, 2019.
3. In fact, I still have never been actually served with the Complaint.
4. I have reviewed the Docket in this case, which indicated that a Complaint was filed on November 18, 2018 (Docket Entry No. 1).
5. I have attached a copy of the Docket to this Affidavit.
6. The Docket further indicates that on March 5, 2019 a Case Management Conference was held.
7. The Minutes of Proceedings for such Case Management Conference indicates that "service shall be completed on Defendants, Johnson and Jamison with 30 days".
8. These Minutes of Proceedings indicate that I had not been served with the Complaint, as of that date (March 5, 2019).
9. Docket Entry 11 indicates that as of March 25, 2019, there was a return of service of Complaint, showing service to be unexecuted.



10. Docket Entry 12 indicates that on April 15, 2019, there was a request to serve the Complaint by ordinary mail.

11. Docket Entry 14, indicates that the Complaint was mailed to me on April 16, 2019.

12. Although Docket Entry 14, indicates that the Complaint was sent by ordinary mail to me, I never received it in the mail.

13. Docket Entry 14 listed my correct address. Nevertheless, I did not receive the Complaint in the mail.

14. My home is located at the intersection of Hampton Road and Ripley Avenue, in Cleveland, Ohio.

15. The two front doors, and the mailbox, to my home, are located on Ripley Avenue. There is no front door, nor mailbox, on Hampton Road.

16. As a result of the location of my mailbox on Ripley Avenue, often my mail becomes undelivered.

17. The Docket (Entry No. 17) indicates that a Motion for Default Judgment was filed against me on June 19, 2019.

18. I received a copy of the Motion for Default Judgment in the mail shortly thereafter. The reason I received this mailing was that I was out my yard when the mailman was delivering the mail.

19. When I received the Motion for Default Judgement, this was the first time I became aware of the fact that I was a named Defendant in this case.

20. Upon receipt, I immediately contacted George L. Forbes, Esq. at Forbes, Fields & Associates Co., L.P.A. to represent me in this matter.

21. Forbes, Fields & Associates Co. L.P.A. filed my Opposition to the Motion for Default Judgment on July 3, 2019, within the time allowed by Court rule.

22. On July 3, 2019, I also filed a Motion for Leave to File Answer, Instanter, which was denied by this Court pursuant to its August 1, 2019 Ruling.

23. I have meritorious defenses to this case.

24. I know for a fact that all purported 44 class members have received their full wages.

25. Further, my association with Buckeye Shaker Square Development Corporation is that of being the Cleveland City Councilman in the ward of the City of Cleveland that it is located in.

26. I was not the class members' employer, nor do I have any formal employment or management relationship with Buckeye Shaker Square Development Corporation.

27. I have never been a board member, nor employee, of Buckeye Shaker Square Development Corporation.

28. I, as the Councilman, recommended to Cleveland City Council that Buckeye Shaker Square Development Corporation, along with hundreds of other entities, be funded. Cleveland City Council, as a whole, approved the funding, and Mayor Frank Jackson signed the legislation awarding them funding.

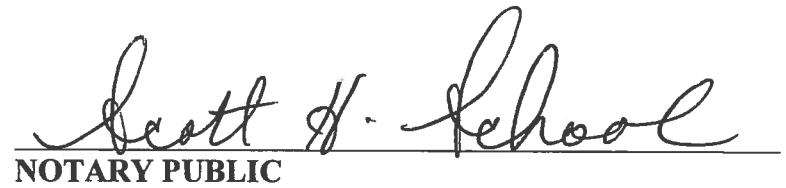
29. No one Councilman can fund any group. The Cleveland City Council must act in its legislative capacity, as a whole, concerning any funding request.

30. I was informed, in a conversation with Defendant John Hopkins, that the Cleveland Community Development Department released the funds to Buckeye Shaker Square Development Corporation to pay all the wages to the class members, approximately two days after this lawsuit was filed.

**AFFIANT FURTHER SAYETH NAUGHT.**

  
**KENNETH JOHNSON**

**SWORN TO BEFORE ME** and subscribed in my presence on this 7th day of August,  
2019.

  
**NOTARY PUBLIC**

**SCOTT H. SCHOOLER, ESQ.  
NOTARY PUBLIC • STATE OF OHIO  
My commission has no expiration date  
Section 147.03 O.R.C.**

**U.S. District Court**  
**Northern District of Ohio (Cleveland)**  
**CIVIL DOCKET FOR CASE #: 1:18-cv-02675-CAB**

Coffey v. Buckeye Shaker Square Development Corporation et al  
Assigned to: Judge Christopher A. Boyko  
Demand: \$500,000,000  
Cause: 29:201 Fair Labor Standards Act

Date Filed: 11/18/2018  
Jury Demand: Plaintiff  
Nature of Suit: 710 Labor: Fair Standards  
Jurisdiction: Federal Question

**Plaintiff**

**Brian Coffey**  
*On behalf of himself and all others similarly situated*

represented by **Thomas A. Downie**  
Ste. 104  
46 Chagrin Falls Plaza  
Chagrin Falls, OH 44022  
440-973-9000  
Fax: 440-210-4610  
Email: tom@chagrinlaw.com  
**ATTORNEY TO BE NOTICED**

**Scott D. Perlmutter**  
Tittle & Perlmutter  
Ste. 716  
2012 West 25 Street  
Cleveland, OH 44113  
216-308-1522  
Fax: 888-604-9299  
Email: scott@tittlelawfirm.com  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**Buckeye Shaker Square Development Corporation**

represented by **David L. Moore**  
Buckley King - Cleveland  
1400 Fifth Third Center  
600 Superior Avenue, E  
Cleveland, OH 44114  
216-363-1400  
Fax: 216-579-1020  
Email: moore@buckleyking.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Elizabeth A. Crosby**  
Buckley King - Cleveland  
1400 Fifth Third Center  
600 Superior Avenue, E  
Cleveland, OH 44114  
216-685-4752

Fax: 216-579-1020  
Email: crosby@buckleyking.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Brent M. Buckley**  
Buckley King - Cleveland  
1400 Fifth Third Center  
600 Superior Avenue, E  
Cleveland, OH 44114  
216-363-1400  
Fax: 216-579-1020  
Email: buckley@buckleyking.com  
**ATTORNEY TO BE NOTICED**

**Defendant**

**John Hopkins**

represented by **David L. Moore**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Elizabeth A. Crosby**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Brent M. Buckley**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Garnell Jamison**

represented by **George L. Forbes**  
Forbes, Fields & Associates  
700 Rockefeller Bldg.  
614 West Superior Avenue  
Cleveland, OH 44113  
216-696-8076  
**ATTORNEY TO BE NOTICED**

**Scott H. Schooler**  
Forbes, Fields & Associates  
700 Rockefeller Bldg.  
614 Superior Avenue, W  
Cleveland, OH 44113  
216-696-7170  
Fax: 216-696-8076  
Email: sschooler@forbes-fields.com  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Kenneth L. Johnson**

represented by **George L. Forbes**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Scott H. Schooler**  
 (See above for address)  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
11/18/2018	<u>1</u>	<b>Complaint</b> Class and collective Action with jury demand against All Defendants. Filing fee paid \$ 400, Receipt number 0647-9013796. Filed by Brian Coffey. (Attachments: # <u>1</u> Exhibit Coffey Opt-In Form, # <u>2</u> Civil Cover Sheet) (Perlmutter, Scott) (Entered: 11/18/2018)
11/19/2018		Judge Christopher A. Boyko assigned to case, (B,R) (Entered: 11/19/2018)
11/19/2018		Random Assignment of Magistrate Judge pursuant to Local Rule 3.1. In the event of a referral, case will be assigned to Magistrate Judge William H. Baughman, Jr. (B,R) (Entered: 11/19/2018)
11/19/2018	<u>2</u>	Magistrate Consent Form issued. Summons were not provided and were not issued. (B,R) (Entered: 11/19/2018)
11/21/2018	<u>3</u>	Notice of Appearance of Counsel filed by All Defendants. (Buckley, Brent) (Entered: 11/21/2018)
11/29/2018	<u>4</u>	Amended Notice of Appearance of Counsel filed by Buckeye Shaker Square Development Corporation. (Buckley, Brent) (Entered: 11/29/2018)
12/06/2018	<u>5</u>	Corporate Disclosure Statement filed by Buckeye Shaker Square Development Corporation. (Buckley, Brent) (Entered: 12/06/2018)
12/27/2018	<u>6</u>	Waiver of Service Returned Executed by Brian Coffey. Buckeye Shaker Square Development Corporation waiver sent on 11/19/2018, answer due 1/18/2019; John Hopkins waiver sent on 11/19/2018, answer due 1/18/2019 filed on behalf of Brian Coffey (Perlmutter, Scott) (Entered: 12/27/2018)
01/18/2019	<u>7</u>	<b>Answer to <u>1</u> Complaint</b> , filed by Buckeye Shaker Square Development Corporation, John Hopkins. (Buckley, Brent) (Entered: 01/18/2019)
02/11/2019	<u>8</u>	<b>Case Management Conference Scheduling Order</b> with case management conference to be held on 3/5/2019 at 11:00 AM at Chambers 15B. Judge Christopher A. Boyko on 2/11/2019. (Attachments: # <u>1</u> Report of Parties' Planning Meeting, # <u>2</u> Consent Package) (H,CM) (Entered: 02/11/2019)
02/22/2019	<u>9</u>	Original Summons issued at counter for service upon Garnell Jamison, Kenneth L. Johnson. (B,R) (Entered: 02/22/2019)
02/22/2019		Service by Clerk. Summons and Complaint addressed to Garnell Jamison, Receipt # 70151520000208933114 and Kenneth L. Johnson Receipt # 7015152000020893107 placed in U.S. Mail. Type of service: certified mail.. (B,R) (Entered: 02/22/2019)
03/04/2019	<u>10</u>	Report of Parties' Planning Meeting - parties do not consent to this case being assigned to the magistrate judge, filed by Brian Coffey. (Perlmutter, Scott) (Entered: 03/04/2019)
03/05/2019		<b>Minutes of proceedings</b> [non-document] before Judge Christopher A. Boyko. Case Management Conference held on 3/5/2019. Case is assigned to the standard track. Service shall be completed on Defendants Johnson and Jamison within 30 days. Telephone Conference set for 4/10/2019 at 2:00 PM. Plaintiff's counsel shall initiate. Court will set

		further schedule thereafter. (Court Reporter: none.) Time: 25 mins. (S,SR) (Entered: 03/05/2019)
03/25/2019	<u>11</u>	Return of Service by Clerk unexecuted upon Ken Johnson and Garnell Jamison. Service attempted by certified mail on 3/18/19 filed on behalf of Brian Coffey Related document(s) <u>2</u> , <u>1</u> . (W,CM) (Entered: 03/26/2019)
04/10/2019		<b>Minutes of proceedings</b> [non-document] before Judge Christopher A. Boyko. Telephone Status Conference held on 4/10/2019. Telephone Status Conference set for 4/30/2019 at 03:00 PM. Plaintiff's counsel shall initiate. (Court Reporter: None; Time: 10 min.) (H,CM) (Entered: 04/10/2019)
04/15/2019	<u>12</u>	Request to Clerk for service upon Garnell Jamison, Kenneth L. Johnson by Ordinary mail. filed by Brian Coffey. (Attachments: # <u>1</u> Exhibit Certificate of Mailing)(Perlmutter, Scott) (Entered: 04/15/2019)
04/16/2019	<u>13</u>	Service by Clerk. Summons and Complaint addressed to Garnell Jamison placed in U.S. Mail. Type of service: ordinary mail. (W,CM) (Entered: 04/16/2019)
04/16/2019	<u>14</u>	Service by Clerk. Summons and Complaint addressed to Kenneth L. Johnson placed in U.S. Mail. Type of service: ordinary mail. (W,CM) (Entered: 04/16/2019)
04/30/2019		<b>Minutes of proceedings</b> [non-document] before Judge Christopher A. Boyko. Telephone Status Conference held on 4/30/2019. Settlement Conference set for 6/12/2019 at 02:00 PM in Chambers 15B. Lead counsel and all parties with full authority shall attend and comply with the Court's Standing Settlement Conference Order. (Court Reporter: None; Time: 10 min.) (H,CM) (Entered: 04/30/2019)
04/30/2019	<u>15</u>	<b>Settlement Conference Order.</b> Judge Christopher A. Boyko on 4/30/2019. (H,CM) (Entered: 04/30/2019)
06/13/2019		<b>Minutes of proceedings</b> [non-document] before Judge Christopher A. Boyko. Settlement Conference held 6/12/2019. Parties have reached a resolution and will file a joint motion for approval of class action settlement by 6/19/2019 at 12:00 noon. By the same date, Plaintiffs shall file their Application for Default as to Defendants Jamison and Johnson. (Court Reporter: None; Time: 20 min.) (H,CM) (Entered: 06/13/2019)
06/19/2019	<u>16</u>	<b>Joint Motion</b> for extension of time to File Settlement Documents until June 21, 2019 filed by Plaintiff Brian Coffey. (Downie, Thomas) (Entered: 06/19/2019)
06/19/2019	<u>17</u>	<b>Motion</b> for default judgment <i>against Defendants Kenneth Johnson and Garnell Jamison</i> filed by Plaintiff Brian Coffey. (Attachments: # <u>1</u> Exhibit 1 - Case Docket, # <u>2</u> Exhibit 2 - Certified Mail Returns, # <u>3</u> Exhibit 3 - Spreadsheet of Damages, # <u>4</u> Exhibit 4 - Perlmutter Declaration)(Perlmutter, Scott) (Entered: 06/19/2019)
06/20/2019		<b>Order</b> [non-document] granting <u>16</u> Joint Motion for extension of time to File Settlement Documents until June 21, 2019. Signed by Judge Christopher A. Boyko on 6/20/2019. (L,Ja) (Entered: 06/20/2019)
06/21/2019	<u>18</u>	<b>Joint Motion</b> Approval of Class and Collective action Settlement filed by Plaintiff Brian Coffey. (Attachments: # <u>1</u> Exhibit Settlement Agreement, # <u>2</u> Exhibit Proposed Preliminary Approval Order, # <u>3</u> Exhibit Proposed Notice)(Downie, Thomas) (Entered: 06/21/2019)
07/03/2019	<u>19</u>	Attorney Apperance of <i>Scott H. Schooler and George L. Forbes</i> filed by Garnell Jamison, Kenneth L. Johnson. (Schooler, Scott) (Entered: 07/03/2019)
07/03/2019	<u>20</u>	<b>Motion</b> for leave to File Answer, Instanter filed by Garnell Jamison, Kenneth L. Johnson. (Related document(s) <u>1</u> ). (Attachments: # <u>1</u> Pleading Answer) (Schooler, Scott) (Entered:

		07/03/2019)
07/03/2019	<u>21</u>	<b>Opposition to 17 Motion</b> for default judgment <i>against Defendants Kenneth Johnson and Garnell Jamison, filed by Garnell Jamison, Kenneth L. Johnson. (Schooler, Scott)</i> (Entered: 07/03/2019)
07/10/2019	<u>22</u>	<b>Reply</b> in support of <u>17 Motion</u> for default judgment <i>against Defendants Kenneth Johnson and Garnell Jamison, and Opposition to 20 Motion</i> for leave to File Answer, Instanter, filed by Brian Coffey. (Attachments: # <u>1</u> Exhibit 1 - Cuyahoga County Auditor Printout, # <u>2</u> Exhibit 2 - Cuyahoga County Criminal Docket Printout, # <u>3</u> Exhibit 3 - Cleveland.com November 19, 2018 Story, # <u>4</u> Exhibit 4 - Cleveland.com June 13, 2019 Story)(Perlmutter, Scott) (Entered: 07/10/2019)
07/30/2019	<u>23</u>	Settlement Notice <i>Agreement of Settlement and Release</i> filed by Buckeye Shaker Square Development Corporation, John Hopkins. (Buckley, Brent, s/ by Elizabeth A. Crosby). Modified on 8/5/10, filer notified that s/signature should be same as filer (H,SP) (Entered: 07/30/2019)
08/01/2019	<u>24</u>	<b>Order</b> denying Defendant's Motion for Leave to File Answer Instanter (Related Doc # <u>20</u> ). Judge Christopher A. Boyko on 8/1/2019.(W,CM) (Entered: 08/05/2019)

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